



Self-Governing Schools etc. (Scotland) Act 1989

1989 CHAPTER 39

PART II

FURTHER EDUCATION

College Councils

54 Establishment of college councils

- (1) Every education authority shall, by 1st April 1990 or such later date as the Secretary of State may in relation to any education authority or college of further education direct, establish a body, to be known as a “college council”, for each such college in their area for the purpose of exercising such functions as may be delegated to it by that authority by a delegation scheme made under section 56 of this Act.
- (2) Where an education authority propose—
 - (a) to establish a new college of further education; or
 - (b) to amalgamate into one college a number of existing such colleges,they shall, as soon as they consider appropriate but in any event before students are first enrolled in the new or, as the case may be, amalgamated college, establish a college council for that college.
- (3) Subsections (1) and (2) above shall not apply in relation to such classes of college of further education as may be prescribed.
- (4) The members of a college council shall, subject to subsection (5) below and, in relation to casual vacancies, section 55(2)(b) of this Act, be appointed by the education authority after consultation with such organisations, including employer and trade union or other organisations—
 - (a) as appear to them to be representative of interests relevant to the work of the college; or

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- (b) as may be prescribed.
- (5) The principal of a college of further education shall be a member of the college council *ex officio* and, in appointing the remaining members of a college council, the education authority shall—
- (a) secure that—
- (i) the total number of members does not exceed 20;
 - (ii) not less than half the members are selected from persons nominated by employers, or by employer organisations consulted by the authority under subsection (4) above; and
 - (iii) not more than one fifth of the members appointed by the authority are members or employees (other than persons employed at any educational establishment) of either that authority or of any other local authority;
- and
- (b) comply with such further conditions as to the composition of the council as may be prescribed.
- (6) As from—
- (a) the first occasion on which a college council established under this section discharge functions delegated to them by virtue of section 56 of this Act; or
 - (b) 1st October 1990 (in relation to colleges to which subsections (1) and (2) above do not apply);
- any college council appointed under section 125 of the 1973 Act (schools and college councils) for the college in question shall cease to exist.
- (7) Notwithstanding the repeal by this Act of—
- (a) section 125 of the 1973 Act; and
 - (b) references to college councils in section 126 of and Schedule 10 to that Act,
- those provisions shall remain in force in relation to any college council appointed under the said section 125 for so long as that council remains in existence.

55 Proceedings of college councils

- (1) Every college council shall elect one of their number, who shall not be—
- (a) an employee of an education authority; or
 - (b) a student or a representative of students at the college,
- to be the council chairman.
- (2) The Secretary of State may by regulations make provision as to—
- (a) the duration of appointments to college councils;
 - (b) the procedure for filling casual vacancies on councils;
 - (c) the grounds on which a person may be disqualified from being a member of a council; and
 - (d) the meetings and proceedings of councils.
- (3) Subject to any regulations made by the Secretary of State under subsection (2) above, a college council may determine their own procedure and, without prejudice to the generality of the foregoing, they may—
- (a) arrange for the discharge of any of their functions by—

- (i) a committee appointed by them;
 - (ii) the chairman of the council; or
 - (iii) a member of the staff of the college; and
 - (b) delegate to any member of the council or any member of the staff of the college power to execute documents on behalf of the council.
- (4) The proceedings of a college council or of any committee appointed by them under subsection (3)(a) above shall not be invalidated by reason of—
- (a) any vacancy among the members; or
 - (b) any defect in the appointment of any member.

56 Functions of college councils

- (1) Subject to the provisions of this section, every education authority shall, by 1st October 1990 or such later date as the Secretary of State may in relation to any education authority or college council direct, make an instrument, to be known as a “delegation scheme”, in respect of each college council in their area, delegating, subject to such conditions as the authority think appropriate, such of the authority’s functions—
- (a) in relation to the management, supervision and financial control of the college; and
 - (b) under sections 61 to 63 of this Act,
- as they consider to be appropriate.
- (2) The functions which may be delegated by a scheme under subsection (1) above do not include any power—
- (a) to enter into contracts of employment with, or to dismiss, staff of the college; or
 - (b) to make loans to any companies formed by the authority by virtue of section 61(1)(a) of this Act.
- (3) Paragraph (a) of subsection (2) above is without prejudice to an authority’s power under this section to delegate matters relating to—
- (a) the selection of persons suitable to be employed at the college; and
 - (b) the career development, including redeployment, of members of the staff of the college;
- (4) Subject to subsection (2) above, the Secretary of State may make regulations—
- (a) as to the functions which are to be included in or excluded from a scheme made under subsection (1) above; and
 - (b) as to the conditions subject to which functions are to be delegated.
- (5) Where a scheme made under subsection (1) above becomes inconsistent with regulations made by the Secretary of State under subsection (4) above the authority concerned shall, so soon as is practicable, make the amendments necessary to make the scheme consistent with any such regulations.
- (6) The education authority may at any time amend a scheme made under subsection (1) above in so far as it relates to functions or conditions other than those mentioned in any regulations made under subsection (4) above, but the authority shall give the college council concerned—
- (a) not less than 3 months’ notice of any such amendment; and

- (b) an opportunity to make representations to, and to be heard by, the authority concerning the proposed amendment.
- (7) Subject to subsections (1) to (6) above, a college council may do anything which is calculated to facilitate the exercise of the functions delegated to them by their education authority and, without prejudice to the foregoing generality, may—
- (a) enter into contracts and agreements;
 - (b) raise funds by any means (other than borrowing);
 - (c) receive gifts; and
 - (d) invest money.

57 Financing of college councils and financial information

- (1) Every education authority shall, in respect of each financial year, before the beginning of that financial year, and in accordance with regulations made under subsection (2) below, determine for each college council in their area, after consultation with the council, what sum of money within the authority's budget is required by the council for—
- (a) carrying out any functions delegated to the council by a delegation scheme made under section 56 of this Act; and
 - (b) meeting the administrative expenses and other outgoings of the council.
- (2) Regulations made by the Secretary of State under this subsection may include provision—
- (a) as to the rules in accordance with which the determination mentioned in subsection (1) above is to be carried out;
 - (b) as to the extent to which a college council may retain any income or gift received by them;
 - (c) as to the extent to which any income of the college council may be taken into account by the education authority in making the determination described in subsection (1) above; and
 - (d) in respect of—
 - (i) the manner in which any surplus or deficit in the income and expenditure of a college council in any financial year is to be calculated; and
 - (ii) whether and, if so, to what extent the education authority are to take any such surplus or deficit into account in the determination made by them under subsection (1) above.
- (3) An education authority shall make available to each college council in their area the money determined under this section for that council at such times as that money is required.
- (4) Subject to any regulations made under subsection (2) above, if, during any financial year, it appears to an education authority appropriate to do so, they may—
- (a) increase; or
 - (b) reduce,
- the sum determined under this section for any college council.
- (5) An education authority shall in each financial year, by such date and in such form as may be prescribed, provide to every college council in their area a statement of—

- (a) money paid out by the authority in the previous financial year in respect of—
 - (i) the running costs of the college; and
 - (ii) capital expenditure related to that college; and
 - (b) money proposed to be paid out for those purposes by the authority in the financial year in which the statement is made.
- (6) Without prejudice to section 58(5) of this Act, an education authority shall comply with any reasonable request from a college council for information relating to past, or proposed future, expenditure in respect of that college, whether or not the information sought relates to functions which have been delegated to that council.

58 College council to be agent of education authority

- (1) A college council exercising any function delegated to them by virtue of section 56 of this Act shall be treated, as regards relations with third parties, as the agent of their education authority, whether or not the exercise complies with this Act or with any conditions or restrictions imposed by virtue of this Act.
- (2) The members of a college council shall not incur any personal liability in respect of anything done in good faith in the exercise or purported exercise of any of the council's functions.
- (3) In the exercise of any of their functions, a college council shall ensure that any duty of their education authority under statute or any rule of law is duly complied with.
- (4) A college council shall comply with any reasonable request from their education authority for information relating to the exercise of any of the council's functions.
- (5) An education authority shall comply with any reasonable request from a college council for information relating to the exercise of any of the council's functions.

59 Power to enforce duties of college councils

- (1) An education authority shall not exercise functions which they have delegated to a college council by a delegation scheme made under section 56 of this Act except in so far as—
 - (a) conditions imposed under that section provide; or
 - (b) this section provides.
- (2) Where an education authority are satisfied that a college council in their area have seriously or persistently failed, in relation to any function delegated to them by virtue of the said section 56—
 - (a) to comply with any condition imposed under that section;
 - (b) to comply with this Act or any regulations made under this Act; or
 - (c) to exercise the function so as to ensure that any duty of the authority under statute or any rule of law is complied with,the authority may to the extent that it appears to them necessary to do so suspend the delegation of the function and themselves exercise the function.
- (3) An education authority who intend to suspend the delegation of any function under subsection (2) above shall give the college council not less than four weeks' notice of that intention, unless they are satisfied that gross mismanagement has occurred or that

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an emergency exists, when they may by notice suspend the delegation of the function with immediate effect.

- (4) An education authority shall, in any notice given under subsection (3) above, give their reasons for the suspension in question.
- (5) A college council shall be entitled to make representations with regard to any suspension under subsection (2) or (3) above, and to be heard—
 - (a) where four weeks' notice is given, before expiry of the notice;
 - (b) otherwise within four weeks of the notice.
- (6) An education authority may at any time reverse a suspension under this section entirely or to such extent as they think appropriate.
- (7) Any suspension under this section shall be reviewed by the education authority in question, after giving the college council concerned an opportunity to be heard—
 - (a) within twelve months after the date of the suspension; and
 - (b) thereafter at intervals of not more than twelve months.
- (8) On any review under subsection (7) above the education authority shall, after considering the whole circumstances of the matter, including any representations made by the college council, determine whether the suspension continues to be justified and, in the light of that determination, may—
 - (a) continue the suspension; or
 - (b) reverse the suspension either entirely or to such extent as appears to them to be appropriate.
- (9) An education authority who suspend a function under this section shall have power to adjust accordingly the money made available or to be made available to the college council in question under section 57 of this Act.

60 Allowances for council members

An education authority may pay to any member of a college council in their area—

- (a) in respect of his attendance at a meeting of the council; or
- (b) in respect of his doing anything approved by the authority, or anything of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the council,

such allowances, in the nature of those payable under section 46 of the 1973 Act (which relates to the payment of travelling and subsistence allowances to members of local authorities) as they think fit, being payments of such reasonable amounts as they may determine in any particular case or class of case and not exceeding the amounts specified under the said section 46 for the corresponding allowances under that section.